

Message Text

LIMITED OFFICIAL USE

PAGE 01 DAR ES 02876 231116Z

44

ACTION AID-59

INFO OCT-01 AF-10 IO-14 ISO-00 EB-11 IGA-02 CIAE-00 INR-11

NSAE-00 RSC-01 TRSE-00 SY-04 L-03 SCS-03 PPT-02 SCA-01

JUSE-00 SS-20 NSC-07 SP-03 DRC-01 /153 W

----- 034598

R 230946Z AUG 74

FM AMEMBASSY DAR ES SALAAM

TO SECSTATE WASHDC 6234

INFO USMISSION USUN NEW YORK

LIMITED OFFICIAL USE DAR ES SALAAM 2876

USUN FOR AMB CARTER

FROM EMB/USAID/REDSO

E.O. 11652: N/A

TAGS: EAID, TZ

SUBJECT: NELLO L. TEER COMPANY

REF: LETTERS CHARGE-COOTE, AUGUST 6 AND 16, 1974;

LETTER DIR JOHNSON/KNOLL DATED 1 AUGUST 1974

1. SUMMARY. TANGOV HAS SEIZED FINANCIAL RECORDS NELLO TEER CONSTRUCTION COMPANY AND ASKING FOR RECORDS FROM BEGINNING OF ROAD CONSTRUCTION IN 1968. TANGOV HAS ALSO PICKED UP US PASSPORT OF NELLO TEER EMPLOYEE AND HAS NOT YET RESPONDED TO EMBASSY REQUEST THAT PASSPORT BE RETURNED. APPEARS TANGOV SUSPECTS NELLO TEER AND/OR ITS EMPLOYEES INVOLVED IN EXCHANGE CONTROL VIOLATIONS. NELLO TEER OFFICIALS HERE BELIEVE, HOWEVER, TANGOV MAY BE SEEKING TO FRUSTRATE/INTIMIDATE NELLO TEER ON EVE ARBITRATION IN LONDON OF OUTSTANDING CLAIMS. DEPARTMENT'S ADVICE/COMMENT REQUESTED SOONEST ON CERTAIN LEGAL ASPECTS OF CASE. END SUMMARY.

2. AS REPORTED REFLETS, PLAINCLOTHES POLICEMEN ENTERED OFFICE OF
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 DAR ES 02876 231116Z

NELLO L. TEER COMPANY (NLT) ON 31 JULY. THEY PROCEEDED

STRAIGHT TO A PARTICULAR SAFE AND REQUESTED SELECTED ITEMS FROM ITS CONTENTS. AMONG THESE WERE SAID TO BE SOME TWENTY THOUSAND T.SHS., PERSONAL FUNDS BELONGING TO CHIEF ACCOUNTANT (FILIPINO), FIFTY THOUSAND T.SHS., SMALLER AMOUNTS OF U.S. DOLLARS, MALAWIAN AND ZAMBIAN CURRENCIES AND SEVERAL ACCOUNT BOOKS, ALL BELONGING TO NLT. ALSO TAKEN WERE SEVERAL PACKETS U.S. DOLLARS BELONGING TO NLT EMPLOYEES. THE MAIN OFFICE SAFE WAS NOT MOLESTED. SAME POLICE VISITED CHIEF ACCOUNTANT'S HOME AND TOOK HIM TO POLICE STATION FOR QUESTIONING. WITHIN SEVERAL DAYS, POLICE HAD QUESTIONED OTHER NLT EMPLOYEES, BOTH LOCAL AND AMERICAN, ON MATTERS HAVING TO DO WITH CURRENCY EXCHANGES. THE POLICE RETURNED ON PERSONAL BATCH OF SEVEN HUNDRED U.S. DOLLARS WHEN OWNER PRODUCED CUSTOMS RECEIPT.

3. L. WALSH WAS THE SENIOR COMPANY REPRESENTATIVE IN DAR AT BEGINNING INVEQZIGATION AND ON 8 AUGUST, OTHER POLICEMEN, PRESUMBABLY FROM CID, VISITED WALSH AT HIS HOME ABOUT 10:30 P.M. AND TOOK AWAY HIS AMERICAN PASSPORT AND PLANE TICKET ON EVE OF HIS DEPARTURE FOR BUSINESS IN NAIROBI. ON 10 AUGUST, NLT WAS REQUESTED BY LETTER FROM BANK OF TANZANIA TO TURN OVER WITHIN 48 HOURS CASH BOOKS, LEDGERS, DAY BOOK, RECEIPTS, PAYMENTS/PETTY CASH VOUCHERS, INVOICES AND ALL OTHER DOCUMENTS HAVING TO DO WITH EXCHANGE CONTROL ORDINANCE 294.

4. SEPARATE FROM EXCHANGE CONTROL QUERIES, NLT HAD REQUESTED AUTHORITY THROUGH BANK OF TANZANIA TO BEGIN SHIPMENT OF CERTAIN HEAVY EQUIPMENT TO NEW JOB IN MALAWI. THIS REQUEST GRANTED BY BANK AUGUST 19. NONETHELESS, FREDRICH AND WALSH THINK ENTIRE INVESTIGATION IS DELIBERATE EFFORT TO COUNTER SUCCESS NLT ANTICIPATES UNDER ARBITRATION SECOND ROUND OF CLAIMS. RENEWED ARBITRATION IS SCHEDULED IN LONDON SEPTEMBER 9.

5. AT REQUEST OF EMB/USAID, JONES, REDSO LEGAL ADVISER, HAS VISITED DAR TWICE AND WELL AWARE OF NLT CASE. HE, DIRECTOR JOHNSON AND NLT REPS MET MR. NYIRABU, GOVERNOR, BANK OF TANZANIA, ON 14 AUGUST. JONES SUMMARIZED PARA 5(A) OF BILATERAL WHICH IDENTICAL TO PORTION CLAUSE 77.9 OF DAR-MOROGORO CONTRACT AND PROVIDES IN PERTINENT PART QUOTE ANY ... FUNDS INTRODUCED INTO OR ACQUIRED IN ... TANZANIA BY ... ANY CONTRACTOR FINANCED BY ... (U.S.A.), FOR PURPOSES ANY PROGRAM OR PROJECT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 DAR ES 02876 231116Z

CONDUCTED HEREUNDER SHALL.1 2#8)3 ... FUNDS USED ... IN CONNECTION SUCH PROGRAM OR PROJECT, BE EXEMPT FROM, ... CURRENCY CONTROLS IN ... TANZANIA ... END QUOTE. FREDRICH INFORMED NYIRABU THAT IT IMPOSSIBLE FOR NLT TO SUBMIT REQUESTED ACCOUNTING MATERIALS WITHIN 48- HOURS DEADLINE SINCE SEVERAL TONS OF PAPER WOULD HAVE TO BE SIFTED, OTHER DOCUMENTS IN DURHAM, N.C., AND SOME PROBABLY DESTROYED. NYIRABU SEEMED WELL INFORMED AND AWARE NLT RIGHTS AS CONTRACTOR AND SAID HE WOULD BE IN CONTACT WITH NLT BY PHONE.

NYIRABU DID CALL AND SENT A FOLLOW-UP LETTER EXTENDING TIME FOR REQUESTED DOCUMENTS TO 24 AUGUST.

6. USAID DIRECTOR MET WITH TREASURY OFFICIALS ON AUGUST 20 AND REVIEWED BACKGROUND OF NLT SITUATION INCLUDING THE LIFTING OF WALSH'S PASSPORT AND COMPANY RECORDS. POINTS WERE MADE THAT SUCH ACTIONS SUGGEST HARRASSMENT, THAT FURTHER DELAY IN LODGING A CHARGE OR RELEASING THE DOCUMENTS WILL WORSEN SITUATION. TREASURY TOTALLY UNAWARE OF ENTIRE INVESTIGATION, SAID THEY HAD NOTHING TO DO WITH IT BUT WOULD QUOTE LOOK INTO IT AND CONTACT USAID END QUOTE.

7. EMB HAS REQUESTED RETURN OF WALSH'S PASSPORT ORALLY AND IN WRITING TO FONMIN. CHARGE HAS ALSO SPOKEN WITH SENIOR FONMIN OFFICIAL, BERNARD MUGANDA, AUGUST 17, ALERTING HIM TO POTENTIAL IRRITANT TO US/TANZANIA RELATIONS POSED BY THESE RECENT ACTIONS BY TANGOV TOWARDS NELLO TEER AND ITS EMPLOYEES. URGED MUGANDA TO INVESTIGATE SITUATION. SPECIFICALLY REQUESTED IMMEDIATE RETURN WALSH'S PASSPORT AND SPECIFICATION OF ANY CHARGE AGAINST NELLO TEER OR ITS EMPLOYEES. ON THIS LAST POINT, TOLD MUGANDA NELLO TEER NEEDED ITS FINANCIAL RECORDS TO PREPARE FOR ARBITRATION WITH TANGOV IN LONDON. IF TANGOV FRUSTRATED NELLO TEER PREPARATION, THAT IN ITSELF COULD BECOME ADDITIONAL ISSUE UNDER ARBITRATION. FURTHER, ASKING FOR ALL FINANCIAL RECORDS SINCE NELLO TEER IN TANZANIA, I.E., SINCE 1968, ONEROUS REQUEST AND ONE NELLO TEER FINDING DIFFICULT TO COMPLY WITH BECAUSE MANY RECORDS IN DURHAM, N.C., SOME MINGLED IN WITH RECORDS OF COMPANY'S OTHER ACTIVITIES, OR SOME ORIGINALS HAVE BEEN REDUCED TO TAPE SUMMARIES. CONCLUDED BY NOTING NELLO TEER IS LARGE, INTERNATIONAL COMPANY WHICH HAS SOLID REPUTATION. IT HAS RECORD OF RESPONSIBILITY AND OF MEETING ITS COMMITMENTS. NO NEED, THEREFORE, TO TREAT COMPANY OR ITS EMPLOYEES IN ARBITRARY FASHION. MUGANDA PROMISED LOOK INTO SITUATION.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 DAR ES 02876 231116Z

8. COMMENTS: CLEAR FROM QUESTIONS ASKED BY TANGOV INVESTIGATORS THAT THEY SUSPECT NLT EMPLOYEES AND/OR NELLO TEER COMPANY INVOLVED IN INFRACTION EXCHANGE CONTROL LAWS, ESPECIALLY CURRENCY DEALINGS. HOWARD FREDRICH AND CHARLES NYE (NLT ATTORNEY) IN THIS REGARD COMMENTED TO US THAT SINCE 1968 NLT HAS EMPLOYED OVER 260 AMERICANS AND OTHER THIRD COUNTRY NATIONAL CONSTRUCTION "STIFFS" IN TANZANIA. FREDRICH SAID HE WOULD NOT BE SURPRISED, FRANKLY, IF SOME OF THESE EMPLOYEES DID ON ONE OCCASION OR ANOTHER EXCHANGE CURRENCY ILLEGALLY. INDEED, ON NLT EMPLOYEE CAUGHT RED-HANDED BY TANGOV TRYING TO EXCHANGE MONEY ILLEGALLY FEW MONTHS AGO. EMPLOYEE CONVICTED, FINED AND EXPELLED FROM COUNTRY. WE HAVE HEARD OF OTHER EXCHANGE INFRACTIONS BY NLT EMPLOYEES. WE UNAWARE, HOWEVER, THAT COMPANY ITSELF INVOLVED IN SUCH ACTIVITIES. NLT OFFICIALS CLAIM THEY IN DARK RE INVESTIGATION AND REFER TO DYER QUOTE EXEMPTION FROM CURRENCY CONTROLS

UNQUOTE UNDER THEIR CONTRACTHYNJUBILATERAL.

9. NLT ARGUES UNDER BILATERAL AND ITS CONTRACT THAT IT TOTALLY EXEMPT FROM GOT EXCHANGE CONTROL ORDINANCE, SEC. 61 OF WHICH PURPORTEDLY PERMITS ABSOLUTE (AND GENERAL) EXEMPTIONS, AND THAT IT MAY NOT BE SUBJECT TO INVESTIGATIONS AND SEIZURES OF EVIDENCE DIRECTED AT EXCHANGE CONTROL VIOLATIONS. REQUEST ADVICE/COMMENT ON APPLICABILITY OF BILATERAL, LIMITS OF EXEMPTIONS AND EXTENT TO WHICH ARGUMENTS BASED THEREON SHOULD BE ASSERTED AND ON FOLLOWING ISSUES: (A) WHETHER QUOTE CURRENCY CONTROL UNQUOTE LESS INCLUSIVE TERM THAN EXCHANGE CONTROL OR LESS RESTRICTED IN CUSTOMARY USAGE AND WHETHER IT INCLUDES FIXED EXCHANGE RATE REQUIREMENT IN CONTEXT OF BILATERAL WHICH SPECIFIES EXCHANGE RATE IN PARA 5(E) AND IN VIEW POSSIBLE AGREEMENTS (E.G. IMF) WHICH MAY REQUIRE TANGOV TO MAINTAIN CERTAIN RATE; (B) WHETHER AND EXTENT WHICH EXEMPTION FROM CURRENCY CONTROLS JUSTIFIES FREEDOM FROM INVESTIGATION FOR VIOLATIONS OF SAME; (C) WHETHER EXEMPTION FROM CURRENCY CONTROLS PERMITS, AT END OF TOURS, FREE AND UNACCOUNTABLE EXCHANGE OF U.S. AND TANGOV CURRENCIES FOR NLT AMERICAN EMPLOYEES. ASSUME INTERPRETATION OF NLT CONTRACT SHOULD NOT BE UNDERTAKEN BY US BUT NOTE IT AND BILATERAL HAVE IDENTICAL LANGUAGE.

10 NLT REPS REFEX TO FFKT THAT FIRM'S PROPERTY INSURED UNDER OPIC AND DELAY BY TANGOV IN RELEASINGHORNIES, OR HINDERING EQUIPMENT FOR TRANSFER TO MALAWI WOULD BE REGARDED BY THEM AS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 DAR ES 02876 231116Z

CONFISCATION.

11. WISH TO ASSURE THAT EMB/USAID/RDSO DOING ALL THAT FEASIBLE AND POSSIBLE TO CLARIFY THIS MATTER. WILL KEEP DEPARTMENT AND AID INFORMED. ADVISE ITEM 9 PRIORITY.
BEYER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONSTRUCTION, FOREIGN EXCHANGE CONTROLS, POLICE INVESTIGATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: papenddr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974DARES02876
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740233-0352
From: DAR ES SALAAM
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740824/aaaaatqp.tel
Line Count: 207
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AID
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: LETTERS CHARGE-COOTE, AUGUST 6 AND 1, 6, 1974;
Review Action: RELEASED, APPROVED
Review Authority: papenddr
Review Comment: n/a
Review Content Flags:
Review Date: 17 JUN 2005
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 JUN 2002 by boyleja>; APPROVED <04 MAR 2003 by boyleja>; WITHDRAWN <13 Jun 2005 by BoyleJA, PRIVACY>; RELEASED <17 JUN 2005 by powellba2>; APPROVED <21 JUN 2005 by papenddr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: NELLO L. TEER COMPANY
TAGS: EAID, EFIN, TZ, US, NELLO TEER CONSTRUCTION COMPANY
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005